



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**MAY 14 2014**

Christopher Kauffman

Osseo, Minnesota 55369

RE: MUR 6642  
Christopher Kauffman

Dear Mr. Kauffman:

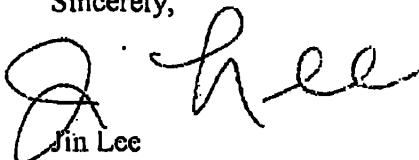
On November 12, 2013, you were notified of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint and the Commission's Factual and Legal Analysis for Unknown Respondents were forwarded to you at that time. Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on May 6, 2014, voted to find reason to believe that you violated 2 U.S.C. §§ 441d(a) and 434(b)(4)(H)(iii), (c)(1), and/or (g) but voted to take no further action as to you other than to issue you a letter of caution. The Commission also found no reason to believe that you violated 2 U.S.C. §§ 432, 433, and 434. Accordingly, the Commission closed the file in this matter. Enclosed is the Factual and Legal Analysis explaining the basis for taking no further action.

Please be advised that the Act requires that any person who makes a disbursement for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate must include a disclaimer on any such communication. 2 U.S.C. § 441d(a); *see also* 11 C.F.R. § 110.11(a)(2). If the communication is not authorized by a candidate or an authorized committee, the disclaimer must clearly state the full name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication and state that the communication was not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3); 11 C.F.R. § 110.11(b)(3). Further, the Act requires every person, other than a political committee, to report independent expenditures that exceed \$250 during a calendar year. 2 U.S.C. § 434(c)(1). The Commission cautions you to take steps to ensure that your conduct is in compliance with the Act and the Commission regulations.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

If you have any questions, please contact me at (202) 694-1530.

Sincerely,

  
Jin Lee  
Attorney

Enclosure

Factual and Legal Analysis for Christopher Kauffman

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**BEFORE THE FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT: CHRISTOPHER KAUFFMAN**

**MUR 6642**

**I. INTRODUCTION**

On June 25, 2013, based on the Complaint filed by the Minnesota Democratic Farmer Labor Party, the Commission found reason to believe that Unknown Respondents violated the disclaimer and independent reporting provisions of the Federal Election Campaign Act, as amended, (the "Act") in connection with the billboard advertisement "FIRE KLOBUCHAR!," located on Interstate 94, West of Albertville, Minnesota.<sup>1</sup> See 2 U.S.C. §§ 441d(a); 434(b)(4)(H)(iii), (c)(1), (g). The Commission took no action at that time with respect to the allegation that Unknown Respondents violated 2 U.S.C. §§ 432, 433, and 434 by failing to register and report as a political committee.<sup>2</sup>

As a result of the investigation, the Commission determined that Christopher Kauffman of Hanover, Minnesota, paid \$3,000 to produce and lease the space for the billboard advertisement. Accordingly, the Commission substituted Christopher Kauffman's name in the place of "Unknown Respondents" in the previous reason to believe findings.

Based upon the totality of the circumstances presented in this matter, the Commission concludes that pursuing this matter further would not be an efficient use of the Commission's resources, and thus, takes no further action as to Kauffman other than to issue a letter of caution. Further, because Kauffman as an individual was not required to register and report as a political committee, the Commission finds no reason to believe that Christopher Kauffman violated 2 U.S.C. §§ 432, 433, and 434.

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<sup>1</sup> Certification, MUR 6642 (Unknown Respondents) (June 27, 2013).

<sup>2</sup> *Id.*

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II. SUMMARY OF INVESTIGATION

The billboard advertisement at issue in this matter contained the slogan, "FIRE KLOBUCHAR!" with a disclaimer that stated, "NOT PAID FOR BY ANY CANDIDATE RUNNING FOR OFFICE."<sup>3</sup> The billboard indicated that Franklin Outdoor Advertising ("Franklin") leased the advertising space. Accordingly, Commission staff contacted Franklin to determine the identity of the lessee, and Franklin indicated that Kauffman had paid for the space.<sup>4</sup> Kauffman subsequently confirmed that he was responsible for the advertisement.<sup>5</sup>

Kauffman resides in Hanover, Minnesota and owns his own business, K-Manufacturing. In January 2013, Kauffman became Mayor of Hanover; he previously was a city councilman.

Documents produced by Franklin indicate that on August 1, 2012, Kauffman contacted Chris Barta, a sales manager at Franklin, seeking to place a billboard advertisement in "a high visibility spot" on Interstate 94 in the Albertville, Minnesota, area containing the message, "FIRE KLOBUCHAR!"<sup>6</sup> Kauffman explained that he contacted Franklin to make a simple statement expressing his frustration with Senator Amy Klobuchar.<sup>7</sup>

On August 3, 2012, Barta sent Kauffman an invoice, attaching a proof for the slogan "FIRE KLOBUCHAR!" and a disclaimer stating "NOT PAID FOR BY ANY CANDIDATE RUNNING FOR OFFICE."<sup>8</sup> On August 6, 2012, Kauffman and Franklin entered into a contract

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<sup>3</sup> Compl., Ex. A.

<sup>4</sup> See Letter from James Braith, Franklin Outdoor Adver., to Jin Lee, FEC (Sept. 4, 2013) ("Braith Letter").

<sup>5</sup> See Email from Christopher Kauffman to Jin Lee (Dec. 3, 2013) ("Kauffman Response").

<sup>6</sup> Email from Christopher Kauffman to Chris Barta, Franklin Outdoor Adver. (Aug. 1, 2012).

<sup>7</sup> Kauffman Response.

<sup>8</sup> Franklin Outdoor Advertising Invoice (Aug. 3, 2012) ("August 3 Invoice").

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1 providing that Kauffman would pay Franklin \$3,000 in total — \$2,000 to lease Sign #418A and  
2 \$1,000 to install and produce the advertisement.<sup>9</sup>

3 On August 10, 2012, Kauffman approved the proof attached to the August 3 Invoice and  
4 authorized Franklin to proceed with producing and installing the advertisement,<sup>10</sup> which Franklin  
5 completed August 21, 2012.<sup>11</sup>

6 In early September 2012, Franklin informed Kauffman that it had received a telephone  
7 call complaining about the disclaimer in the advertisement, and Franklin agreed to revise the  
8 disclaimer at no additional cost to Kauffman.<sup>12</sup> Kauffman asked his contact at Franklin if it  
9 would be “acceptable to just put ‘paid for by C. Kauffman,’” explaining that he “googled this  
10 and it doesn’t really id [sic] anyone in particular. Let me know what you think.”<sup>13</sup>

11 Subsequently, Franklin modified the advertisement’s disclaimer to: “PAID FOR BY C.  
12 KAUFFMAN, 18351 TERRITORIAL RD. DAYTON, MN, AND NOT AUTHORIZED BY  
13 ANY CANDIDATE OR CANDIDATE’S COMMITTEE.”<sup>14</sup> That disclaimer remained in place  
14 through the date of the election.

15 Kauffman was asked why he sought to include only the first initial of his first name in the  
16 disclaimer. He stated that he was concerned about being identified and did not want to receive  
17 “hate mail.” Kauffman further contends that he was unfamiliar with the legal requirements for  
18 disclaimers on political advertisement until he read the previous Factual and Legal Analysis sent

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<sup>9</sup> See Braith Letter; Contract No. 12B080101 (Aug. 6, 2012). According to Franklin, the traffic count for Sign #418A is 73,126 vehicles per day. See <http://franklinoutdoor.com/sign.php?id=329>.

<sup>10</sup> See Email from Chris Kauffman to Chris Barta (Aug. 10, 2012).

<sup>11</sup> See Email from Chris Kauffman to Chris Barta (Aug. 27, 2012).

<sup>12</sup> See Kauffman Response; Braith Letter.

<sup>13</sup> Email from Chris Kauffman to Chris Barta (Sept. 4, 2012).

<sup>14</sup> See Email from Franklin Outdoor (Sept. 24, 2012); Braith Letter; Proof.

1 to him on November 12, 2013 ("First Factual and Legal Analysis"), and that he relied on  
2 Franklin to ensure that the disclaimer complied with relevant law.<sup>15</sup>

### 3 **III. LEGAL ANALYSIS**

#### 4 **A. The Amount in Violation Does Not Warrant Further Commission Action**

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6 As set forth in the Commission's First Factual and Legal Analysis, the disclaimer here  
7 did not satisfy the requirements of the Act and Commission regulations because it failed to  
8 identify the person who paid for the billboard advertisement.<sup>16</sup> Kauffman's effort to remedy the  
9 alleged violation after receiving notice of the improper disclaimer was also inadequate, as he  
10 included only his first initial, not his full name.<sup>17</sup> He further admits that he took this approach to  
11 avoid disclosure of his identity.

12 The information obtained during the investigation also reflects that Kauffman should  
13 have filed an independent expenditure report with the Commission under 2 U.S.C. § 434(c)(1),  
14 which requires every person to report independent expenditures that exceed \$250 during a  
15 calendar year.<sup>18</sup>

16 Nonetheless, the full cost of the advertisement at issue here was only \$3,000.  
17 Furthermore, this appears to have been an isolated incident by an individual inexperienced in  
18 making independent expenditures, acting in his individual capacity. Although Kauffman

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<sup>15</sup> See Kauffman Response (stating that Franklin agreed "to fix the sign" free of charge and that he "considered the issue fixed").

<sup>16</sup> Any person who makes a disbursement for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate must include a disclaimer on any such communication. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a)(2). If the communication is not authorized by a candidate or an authorized committee, the disclaimer must clearly state the name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication and state that the communication was not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3); 11 C.F.R. § 110.11(b)(3).

<sup>17</sup> 11 C.F.R. § 110.11(b)(3).

<sup>18</sup> The Commission previously determined that Kauffman's advertisement expressly advocated the defeat of Senator Klobuchar. See First Factual and Legal Analysis at 4, MUR 6642. The advertisement therefore constituted an independent expenditure. 2 U.S.C. § 431(17).

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1 concedes that he sought to limit the likelihood that he would be identified through the disclaimer,  
2 his correspondence with Franklin tends to corroborate his claim that he relied on Franklin's  
3 experience with legal issues in advertising to determine whether using only his first initial in the  
4 disclaimer "would [be] acceptable."<sup>19</sup>

5 Given the totality of the circumstances, the Commission has determined that further  
6 enforcement proceedings would not be an efficient use of the Commission's resources, but  
7 cautions Kauffman in light of the inadequacy of the remedial measures undertaken to comply  
8 with the Act. Accordingly, the Commission takes no further action as to Christopher Kauffman  
9 concerning the alleged violation of 2 U.S.C. § 441d(a) and 434(b)(4)(H)(iii), (c)(1), and/or (g),  
10 other than to issue a letter of caution.<sup>20</sup>

11 **B. Kauffman Need Not Register and Report as a Political Committee**

12  
13 The Act and Commission regulations define a "political committee" as "any committee,  
14 club, association or *other group of persons* which receives contributions aggregating in excess of  
15 \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000  
16 during a calendar year."<sup>21</sup> In *Buckley v. Valeo*, the Supreme Court concluded that the term  
17 "political committee" "need only encompass organizations that are under the control of a  
18 candidate or the major purpose of which is the nomination or election of a candidate."<sup>22</sup>

19 The Complaint alleges that if Unknown Respondents spent more than \$1,000 on the  
20 billboard advertisement, then they may have triggered political committee status, requiring them

<sup>19</sup> Email from Chris Kauffman to Chris Barta (Sept. 4, 2012); *see* Kaufmann Response.

<sup>20</sup> *See Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>21</sup> 2 U.S.C. § 431(4)(A); 11 C.F.R. § 100.5(a) (emphasis added).

<sup>22</sup> 424 U.S. 1, 79 (1976).

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1 to register and report with the Commission.<sup>23</sup> Here, the investigation established that  
2 Christopher Kauffman spent \$3,000 on the advertisement. Although the monetary threshold has  
3 been satisfied, the evidence indicates that Kauffman was acting as one individual, not a "group  
4 of persons," as set forth in section 431(4)(A). When Kauffman first contacted Franklin about  
5 leasing the advertising space at issue, he stated that "[t]his would be my personal deal."<sup>24</sup> In  
6 addition, the investigation did not uncover any information that Kauffman was working in  
7 concert with any other individuals or groups — Franklin communicated with and billed only  
8 Kauffman, and Kauffman confirmed that he used his own personal funds to pay for the  
9 advertisement. Because the evidence establishes that Kauffman was acting alone in funding the  
10 independent expenditure at issue, he does not meet the definition of political committee under  
11 section 431(4)(A). The Commission therefore finds no reason to believe that Kauffman violated  
12 2 U.S.C. §§ 432, 433, and 434, and closes the file.

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<sup>23</sup> Compl. at 2.

<sup>24</sup> Email from Chris Kauffman to Chris Barta (Aug. 1, 2012).

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